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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,249	09/08/2005	Takuzo Nakamura	SHH-008	1462
33628 7590 06/19/2009 KANESAKA BERNER AND PARTNERS LLP 1700 DIAGONAL RD SUITE 310 ALEXANDRIA, VA 22314-2848				
EXAMINER				
HERRING, BRENT W				
ART UNIT		PAPER NUMBER		
3633				
MAIL DATE		DELIVERY MODE		
06/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/537,249

**Applicant(s)**

NAKAMURA ET AL.

**Examiner**

BRENT W. HERRING

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-15 is/are allowed.
- 6) ☒ Claim(s) 16-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2009 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11 March 2009 has been entered.

### ***Drawings***

2. The drawings were received on 11 March 2009. These drawings are objected to.
3. The drawings are objected to because it is unclear if the prior art drawing shown in Fig. 3 of the replacement drawings submitted on 11 March 2009 is intended to replace the Fig. 3 of the drawings submitted on 1 June 2005. The specification should be amended to be consistent with the drawings. Furthermore, newly submitted Fig. 3 should include the label "Prior Art". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Long, US 70,446.

Regarding claim 16:

'446 discloses a member capable of being used for building reinforcement for a structure having first and second structural members connected to each other, the member comprising:

A reinforcing member (see Fig. 1) capable of extending between the first and second structural members and fixed thereto, said reinforcing member including a first spring member protruding to one side thereof and a second spring member (J) protruding to a side opposite to the first spring member to form a space therebetween, and  
A spring (A) provided in the space between the first and second spring members capable of urging the first and second spring member away from each other when the space is narrowed.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber, US 2,202,786 in view of Long, US 70,446.

Regarding claim 16:

'786 discloses a member capable of being used for building reinforcement for a structure having first and second structural members connected to each other, the member comprising:

A reinforcing member (see Fig. 1) capable of extending between the first and second structural members and fixed thereto, said reinforcing member including a first spring member (1) protruding to one side thereof and a second spring member (3) protruding to a side opposite to the first spring member to form a space therebetween,

'786 does not disclose, but '446 does disclose a spring (A) provided in a space between first and second spring members capable of urging the first and second spring member away from each other when the space is narrowed.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the reinforcing member of '786 to use the spring of '446 therewith.

The motivation to combine would have been to provide support to the reinforcing member to prevent the leaf springs from collapsing upon each other.

Regarding claim 17:

'786 further discloses wherein the first spring member is formed by a first plate spring, and the second spring member is formed by second and third plate springs overlapping each other and joined with retainers (5), said second plate being capable of fixing at two longitudinal end portions to the first and second structural members, the first plate spring being immovably connected at two longitudinal end portions only to the second plate spring without connecting to first and second structural members (a, see Fig. 1).

8. Claims 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts, US 1,194,069 in view of Long, US 70,446.

Regarding claim 16:

'069 discloses a member capable of being used for building reinforcement for a structure having first and second structural members connected to each other, the member comprising:

A reinforcing member (see Fig. 1) capable of extending between the first and second structural members and fixed thereto, said reinforcing member including a first spring member (2) protruding to one side thereof and a second spring member (1) protruding to a side opposite to the first spring member to form a space therebetween, '069 does not disclose, but '446 does disclose a spring (A) provided in a space between first and second spring members capable of urging the first and second spring member away from each other when the space is narrowed.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the reinforcing member of '069 to use the spring of '446 therewith. The motivation to combine would have been to provide support to the reinforcing member to prevent the leaf springs from collapsing upon each other.

Regarding claims 18 and 19:

'069 discloses further comprising a rubber adjacent to the reinforcing member capable of being placed in a space enclosed by the first and second structural members and the reinforcing member, and '069 also discloses a rubber installed in a space between the first and second spring members, said foam arranged to resist against a pulling force reducing the space between the first and second spring members due to a force acting on the first and second structural members to enlarge the angle between the first and second structural members.

'069 does not expressly disclose wherein the rubber is a synthetic resin foam.

The rubber of '069 serves the same intended purpose as the synthetic resin foam claimed by applicant.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to replace rubber with synthetic resin foam, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. It is also common knowledge to choose a material that has sufficient strength, durability, flexibility, hardness, etc. for the application and intended use of that material. In the instant case, the motivation to replace synthetic resin foam for rubber would have been material availability and cost while achieving the same intended use.

***Allowable Subject Matter***

9. Claims 10-15 are allowable over the prior art of record.
10. The following is a statement of reasons for the indication of allowable subject matter: the combination of the structural members, the reinforcing member, damper member and synthetic resin foams as claimed are not anticipated nor reasonably suggested by the prior art of record.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRENT W. HERRING whose telephone number is



(571)270-3661. The examiner can normally be reached on Monday-Thursday, 8:00AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. W. H./  
Examiner, Art Unit 3633

/Richard E. Chilcot, Jr./  
Supervisory Patent Examiner, Art  
Unit 3635